

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

RANDALL HAMPTON, (AIS #226420)

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Plaintiff,

\*

V.

2:06-CV-400-MHT

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PRISON HEALTH CARE SERVICES,

\*

Defendant.

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**SPECIAL REPORT OF DEFENDANTS PRISON HEALTH SERVICES, INC.  
AND TAHIR SIDDIQ, M.D.**

COME NOW the Defendants, Prison Health Services, Inc. (identified in the Plaintiff's Amended Complaint as "Prison Health Care Services") (hereinafter "PHS") and Tahir Siddiq, M.D. (identified incorrectly in Plaintiff's Amended Complaint as "Dr. Sediet") in response to this Honorable Court's Order and present the following Special Report with regard to this matter:

**I. INTRODUCTION**

The Plaintiff, Randall Hampton (AIS# 226420) is an inmate confined at Bullock County Correctional Facility located in Union Springs, Alabama. On May 3, 2006, Hampton filed a Complaint against Defendant PHS, the company that currently contracts with the Alabama Department of Corrections to provide healthcare to inmates within the State of Alabama, alleging that it has refused to provide him with appropriate treatment for a "seizure condition." (See Complaint). On August 16, 2006 Mr. Hampton amended his Complaint pursuant to Court Order and alleged that Dr. Siddiq, Bullock's Medical Director, has also failed to provide him with appropriate treatment of his condition. (Id.)

The Plaintiff demands \$1,000,000.00 in damages as well as an Order from the Court requiring that PHS provide him with unspecified medical treatment. (Id.)

As directed, the Defendants have undertaken a review of Plaintiff Hampton's claims to determine the facts and circumstances relevant thereto. At this time, the Defendants are submitting this Special Report, which is supported by a Certified Copy of Plaintiff Hampton's medical records (attached hereto as Exhibit "A"), and the Affidavit of Tahir Siddiq, M.D. (attached hereto as Exhibit "B") These evidentiary materials demonstrate that Plaintiff Hampton has been provided appropriate medical treatment for his complaints at all times, and that the allegations in his Complaint are without merit.

## **II. NARRATIVE SUMMARY OF FACTS**

At all pertinent times, Randall Hampton (AIS# 226420) has been incarcerated as an inmate at Bullock County Correctional Facility. (See Exhibits "A" – "B"). Hampton has been seen and evaluated by Bullock's medical or nursing staff, and has been referred to an appropriate care provider and given appropriate care, each time he has registered any health complaints at Bullock. (Id.)

Mr. Hampton has made an allegation in this matter that the Defendants have failed to provide him with appropriate treatment for a seizure condition. (See Amended Complaint). The Plaintiff's allegations are untrue; he has been afforded appropriate care for this medical condition at all times.

Mr. Hampton has a medical history that is significant for seizure activity beginning in 1995 secondary to a closed head injury. (See Exhibit "B"). In order to treat Hampton's potential for seizures he is maintained with Phenobarbital and Tegretol. (Id.). These medications have been appropriately adjusted as warranted by his changing

condition. (Id.). In order to ensure that Mr. Hampton receives regular evaluation for this condition, he is enrolled in Bullock's chronic care program where he is evaluated in three month intervals. (Id.). Mr. Hampton is also afforded routine blood analysis to ensure that his medications are maintained at therapeutic levels. (Id.).

All of Mr. Hampton's medical conditions and complaints have been evaluated and treated in a timely and appropriate fashion. (See Exhibits "A" and "B"). Mr. Hampton has been seen and evaluated by the medical or nursing staff, and he has been referred to an appropriate care provider and given appropriate care, each time he has registered any health complaints at Bullock. (Id.)

At all times, the Defendants have exercised the same degree of care, skill, and diligence as other similarly situated health care providers would have exercised under the same or similar circumstances. (Id.) In other words, the appropriate standard of care has been adhered to at all times in providing medical care, evaluation, and treatment to this inmate. (Id.)

At no time have the Defendants denied Mr. Hampton any needed medical treatment, nor have they ever acted with deliberate indifference to any serious medical need of Mr. Hampton. (Id.) At all times, Mr. Hampton's medical complaints and conditions have been addressed as promptly as possible under the circumstances. (Id.)

### **III. DEFENSES**

The Defendants assert the following defenses to the Plaintiff's claims:

1. The Defendants deny each and every material allegation contained in the Plaintiff's Complaint, as amended, and demand strict proof thereof.

2. The Defendants plead not guilty to the charges in the Plaintiff's Complaint, as amended.

3. The Plaintiff's Complaint, as amended, fails to state a claim against the Defendants for which relief can be granted.

4. The Defendants affirmatively deny any and all alleged claims by the Plaintiff.

5. The Plaintiff is not entitled to any relief requested in the Complaint, as amended.

6. The Defendants plead the defense of qualified immunity and avers that the actions taken by the Defendants were reasonable and in good faith with reference to clearly established law at the time of the incidents complained of by the Plaintiff.

7. The Defendants are entitled to qualified immunity and it is clear from the face of the Complaint, as amended, that the Plaintiff has not alleged specific facts indicating that the Defendants have violated any clearly established constitutional right.

8. The Defendants cannot be held liable on the basis of respondeat superior, agency, or vicarious liability theories.

9. The Plaintiff is not entitled to any relief under 42 U.S.C. § 1983.

10. The allegations contained in the Plaintiff's Complaint, as amended, against the Defendants sued in their individual capacities, fails to comply with the heightened specificity requirement of Rule 8 in § 1983 cases against persons sued in their individual capacities. See Oladeinde v. City of Birmingham, 963 F.2d 1481, 1485 (11th Cir. 1992); Arnold v. Board of Educ. Of Escambia County, 880 F.2d 305, 309 (11th Cir. 1989).

11. The Defendants plead all applicable immunities, including, but not limited to qualified, absolute, discretionary function immunity, and state agent immunity.

12. The Defendants aver that they were at all times acting under color of state law and, therefore, they are entitled to substantive immunity under the law of the State of Alabama.

13. The Defendants plead the general issue.

14. This Court lacks subject matter jurisdiction due to the fact that even if the Plaintiff's allegations should be proven, the allegations against the Defendants would amount to mere negligence which is not recognized as a deprivation of the Plaintiff's constitutional rights. See Rogers v. Evans, 792 F.2d 1052 (11th Cir. 1986).

15. The Plaintiff's claims against the Defendants in their official capacities are barred by the Eleventh Amendment to the United States Constitution.

16. Alabama law provides tort and other remedies for the allegations made by the Plaintiff herein and such remedies are constitutionally adequate.

17. The Defendants plead the defense that at all times in treating Plaintiff they exercised the same degree of care, skill, and diligence as other physicians and nursing staff would have exercised under similar circumstances and that at no time did they act toward the Plaintiff with deliberate indifference to a serious medical need.

18. The Defendants plead the affirmative defense that the Plaintiff's Complaint, as amended, fails to contain a detailed specification and factual description of the acts and omissions alleged to render them liable to the Plaintiff as required by § 6-5-551 of the Ala. Code (1993).

19. The Defendants plead the affirmative defenses of contributory negligence and assumption of the risk.

20. The Defendants plead the affirmative defense that Plaintiff's damages, if any, were the result of an independent, efficient, and/or intervening cause.

21. The Defendants plead the affirmative defense that they are not responsible for the policies and procedures of the Alabama Department of Corrections.

22. The Defendants plead the affirmative defense that the Plaintiff has failed to mitigate his own damages.

23. The Defendants plead the affirmative defense that they are not guilty of any conduct which would justify the imposition of punitive damages against it and that any such award would violate the United States Constitution.

24. The Defendants adopt and assert all defenses set forth in the Alabama Medical Liability Act § 6-5-481, et seq., and § 6-5-542, et seq.

25. The Plaintiff has failed to exhaust his administrative remedies as mandated by the Prison Litigation Reform Act amendment to 42 U.S.C. § 1997e(a). The Plaintiff has failed to pursue the administrative remedies available to him. See Cruz v. Jordan, 80 F. Supp. 2d 109 (S.D. N.Y. 1999) (claims concerning Defendant's deliberate indifference to a medical need is an action "with respect to prison conditions" and is thus governed by exhaustion requirement).

26. The Prison Litigation Reform Act amendment to 42 U.S.C. § 1997(e)(c) mandates the dismissal of Plaintiff's claims herein as this action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks money damages from the Defendants who are entitled to immunity.

27. The Plaintiff's claims are barred by the Prison Litigation Reform Act of 1995, 42 U.S.C. §1997(e).

28. The Plaintiff has failed to comply with 28 U.S.C. § 1915 with respect to the requirements and limitations inmates must follow in filing in forma pauperis actions in federal court.

29. Pursuant to 28 U.S.C. § 1915 A, this Court is requested to screen and dismiss this case, as soon as possible, either before or after docketing, as this case is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks money damages from the Defendants who are state officers entitled to immunity as provided for in 42 U.S.C. § 1997 (e)(c).

30. The Defendants assert that the Plaintiff's Complaint, as amended, is frivolous and filed in bad faith solely for the purpose of harassment and intimidation and requests this Court pursuant to 42 U.S.C. § 1988 to award Defendants reasonable attorney's fees and costs incurred in the defense of this case.

31. The Plaintiff's claims are moot because the events which underlie the controversy have been resolved. See Marie v. Nickels, 70 F., Supp. 2d 1252 (D. Kan. 1999).

#### **IV. ARGUMENT**

**A. The Plaintiff has failed to prove that the Defendants acted with deliberative indifference to any serious medical need.**

A court may dismiss a complaint for failure to state a claim if it is clear that no relief could be granted under any set of facts that could be proven consistent with the allegations in the complaint. Romero v. City of Clanton, 220 F. Supp. 2d 1313, 1315 (M.D. Ala., 2002), (citing, Hishon v. King & Spalding, 467 U.S. 69, 73, (1984).

“Procedures exist, including Federal Rule of Civil Procedure 7(a), or Rule 12(e), whereby the trial court may “protect the substance of qualified immunity,” Shows v. Morgan, 40 F. Supp. 2d 1345, 1358 (M.D. Ala., 1999). A careful review of Hampton’s medical records reveals that he has been given appropriate medical treatment at all times. (See Exhibits “A” & “B”). All of the allegations contained within Hampton’s Complaint, as amended, are either inconsistent with his medical records, or are claims for which no relief may be granted. (Id.) Therefore, Hampton’s claims against the Defendants are due to be dismissed.

In order to state a cognizable claim under the Eighth Amendment, Hampton must allege acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs. See Estelle v. Gamble, 429 U.S. 97, 106 (U.S. 1976); McElligott v. Foley, 182 F.3d 1248, 1254 (11th Cir. 1999); Palermo v. Corr. Med. Servs., 148 F. Supp. 2d 1340, 1342 (S.D. Fla. 2001). In order to prevail, Hampton must allege and prove that he suffered from a serious medical need, that the Defendants were deliberately indifferent to his needs, and that he suffered harm due to deliberate indifference. See Marsh v. Butler County, 268 F.3d 1014, 1058 (11th Cir. 2001) and Palermo, 148 F. Supp. 2d at 1342. “Neither inadvertent failure to provide adequate medical care nor a physician’s negligence in diagnosing or treating a medical condition states a valid claim of medical mistreatment under the Eighth Amendment.” Id. (citations omitted).

Not every claim by a prisoner that medical treatment has been inadequate states an Eighth Amendment violation. Alleged negligent conduct with regard to inmates’ serious medical conditions does not rise to the level of a constitutional violation. Alleged medical malpractice does not become a constitutional violation merely because the



alleged victim is a prisoner. See Estelle, 429 U.S. at 106, McElligott, 182 F.3d at 1254, Hill, 40 F.3d 1176, 1186 (11<sup>th</sup> Cir. 1994), Palermo, 148 F. Supp. 2d at 1342. Further, a mere difference of opinion between an inmate and the physician as to treatment and diagnosis cannot give rise to a cause of action under the Eighth Amendment. Estelle, 429 U.S. at 106-108.

The Defendants may only be liable if they had knowledge of Hampton's medical condition, Hill, 40 F. 3d at 1191, and acted intentionally or recklessly to deny or delay access to his care, or to interfere with treatment once prescribed. Estelle, 429 U.S. at 104-105. Obviously, Hampton cannot carry his burden. The evidence submitted with this Special Report clearly shows that the Defendants did not act intentionally or recklessly to deny or delay medical care, or to interfere with any treatment which was prescribed or directed. The evidence demonstrates, to the contrary, that appropriate standards of care were followed at all times. (Id.) These facts clearly disprove any claim that the Defendants acted intentionally or recklessly to deny treatment or care.

The Defendants are, further, entitled to qualified immunity from all claims asserted by Hampton in this action. There is no argument that the Defendants were not acting within the scope of their discretionary authority. See Eubanks v. Gerwen, 40 F. 3d 1157, 1160 (11<sup>th</sup> Cir. 1994); see also Jordan v. Doe, 38 F. 3d 1559, 1566 (11<sup>th</sup> Cir. 1994). Because the Defendants have demonstrated that they were acting within the scope of their discretionary authority, the burden shifts to Hampton to show that the Defendants violated clearly established law based upon objective standards. Eubanks, 40 F. 3d at 1160. The Eleventh Circuit requires that before the Defendants' actions can be said to have violated clearly established constitutional rights, Hampton must show that the right

allegedly violated was clearly established in a fact-specific, particularized sense. Edwards v. Gilbert, 867 F.2d 1271, 1273 (11<sup>th</sup> Cir. 1989), aff'd in pertinent part, rev'd in part on other grounds, sub nom., Edwards v. Okaloosa County, 5 F. 3d 1431 (11<sup>th</sup> Cir. 1989).

The Eleventh Circuit further requires that the inquiry be fact specific, and that officials will be immune from suit if the law with respect to their actions was unclear at the time the cause of action arose, or if a reasonable person could have believed that their actions were lawful in light of clearly established law and information possessed by the individual. See Brescher v. Von Stein, 904 F.2d 572, 579 (11th Cir. 1990) (quoting, Anderson v. Creighton, 483 U.S. 635, 640, (U. S. 1987)). The question that must be asked is whether the state of the law in 2006 gave the Defendants fair warning that their alleged treatment of Hampton was unconstitutional. Hope v. Pelzer, 536 U.S. 730, 741 (U.S. 2002).

Therefore, to defeat summary judgment, Hampton must be able to point to cases with “materially similar” facts, within the Eleventh Circuit, that would alert the Defendants to the fact that their practice or policy violates his constitutional rights. See Hansen v. Soldenwagner, 19 F.3d 573, 576 (11th Cir. 1994). In order for qualified immunity to be defeated, preexisting law must “dictate, that is truly compel (not just suggest or allow or raise a question about), the conclusion for every like-situated, reasonable government agent that what the defendant is doing violates federal law in the circumstances.” Lassiter v. Alabama A & M Univ., Bd. of Trustees, 28 F. 3d 1146, 1151 (11<sup>th</sup> Cir. 1994). The Defendants submit that there is no case law from the United States Supreme Court, the Eleventh Circuit Court of Appeals, or District Courts sitting within

the Eleventh Circuit showing that, under the facts of this case, it was clearly established that these alleged actions violated Hampton's constitutional rights. All of Hampton's medical needs have been addressed or treated. (See Exhibits "A" & "B"). The Defendants have provided Hampton with appropriate medical care at all times and he has received appropriate nursing care as indicated for treatment of his condition.

#### **V. CONCLUSION**

The Plaintiff's Complaint, as amended is due to be dismissed on its face, and is, further, disproven by the evidence now before the Court. All of the Plaintiff's requests for relief are without merit. The Defendants have demonstrated both through substantial evidence and appropriate precedent that there is not any genuine issue of material fact relating to a constitutional violation, and that they are, therefore, entitled to a judgment in their favor as a matter of law. The Plaintiff's submissions clearly fail to meet his required burden.

Accordingly, the Defendants request that this Special Report be treated and denominated as a Motion to Dismiss and/or a Motion for Summary Judgment and that this Honorable Court either dismiss the Plaintiff's Complaint, as amended, with prejudice, or enter a judgment in their favor.

Respectfully submitted,

s/L. Peyton Chapman, III  
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s/R. Brett Garrett  
Alabama State Bar Number GAR085  
Attorneys for Prison Health Services,  
Inc. and Tahir Siddiq, M.D.

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**CERTIFICATE OF SERVICE**

I hereby certified that I have mailed via U.S. mail, properly addressed and first-class postage prepaid, the foregoing document this the 20<sup>th</sup> day of November, 2006, to the following:

Randall Hampton, (AIS #226420)  
Bullock Correctional Facility  
P.O. Box 5107  
Union Springs, AL 36089

s/R. Brett Garrett GAR085  
Attorney for Prison Health Services,  
Inc. and Tahir Siddiq, M.D.